

Local Rules Revision Project
Rule Revisions Tentatively Approved on July 8, 2008

August 5, 2008 Draft

Rules Applicable to All Divisions (effective January 1, 2009)

1.1 Amendments to These Rules

- A. These rules are subject to amendment by directive of the Chief Judge.
- B. Amendments to these rules shall be filed with the secretary of the Milwaukee Bar Association, the District Court Administrator for the First Judicial District, the Clerk of Circuit Court, the State Bar of Wisconsin, the State Law Library, and the Director of State Courts.
- C. Because these rules are continuously being improved, parties who rely on these rules should verify that they are relying on a complete current version of these rules. A complete, current version of these rules shall be made available to the public by posting on the Milwaukee County website (www.county.milwaukee.gov) and the State Bar website (www.wisbar.org).

1.2 Plenary Power of Chief Judge over Case Assignment

The Chief Judge may order the assignment and reassignment of cases from branch to branch to facilitate the fair and efficient operation of any division. The Chief Judge may delegate this authority to the Presiding Judge.

1.3 Reassignment of Cases by Substitution and Recusal

- A. Requests for substitution shall be made in writing.
 - 1. In cases assigned to the civil and family divisions, the request shall be filed in the branch to which the case is assigned
 - 2. In cases assigned to the criminal and children's divisions, the request may be made in intake court, preliminary hearing court or in the branch to which the case is assigned.
- B. After a judicial determination that the request is timely and valid, the case shall be reassigned as provided in paragraph E, except for small claims eviction and replevin

cases, which are governed by Rule 3.____ (assignment of small claims cases to duty judge).

- C. If a judge deems it necessary to disqualify himself or herself under Wis. Stat. § 757.19(2), the judge shall state in writing the reasons for disqualification on the form provided by the Chief Judge and request reassignment of the case. If approved by the Chief Judge, the case shall be reassigned as provided in paragraph E, except for small claims eviction and replevin cases, which are governed by Rule 3.____ (assignment of small claims cases to duty judge).
- D. Parties who become aware of a reason for disqualification promptly shall notify the judge and the other parties in writing.
- E. The Chief Judge's office and the Clerk of Circuit Court shall record the number of substitution requests and disqualifications filed in each branch and maintain even caseloads within each division and within the specialty subdivision (such as homicide/sexual assault, drug, domestic violence, etc.) by reassigning cases according to the following procedures:
 - 1. Transfer cases in which substitution is requested or in which the judge disqualifies himself/herself to the branch having the most cases so transferred, or, in the event of substitution requests or disqualifications in the branch with the most cases so transferred, the case shall be transferred to the branch having the second most cases so transferred.
 - 2. If all caseloads within the division are balanced, cases shall be transferred on a rotating basis.
 - 3. All reassignments are subject to Rule 1.2 (plenary authority of Chief Judge over case assignment).

1.4 Temporary Assignment of Cases to Pair Judges

- A. When a matter requires immediate judicial review and the assigned branch is unavailable, the matter is temporarily assigned to one of the pair judges assigned to that branch, except in cases assigned to the small claims branch of the civil division, which cases are temporarily assigned to the duty judge. The deputy court clerk shall assist the parties in locating a pair judge or duty judge.
- B. In cases assigned to the civil or family division, in the event no pair judge is available, the matter is temporarily assigned to the duty judge.
- C. The Chief Judge, in consultation with the Presiding Judge of each division, shall establish a list of pair judges from which such assignments may be made.

- D. A listing of pair judge assignments may be obtained from the Clerk of Circuit Court's office or the Chief Judge's office.
- E. All judges should notify their pair judge(s) of their absences from court for any length of time, planned or unplanned, as soon as is practical, so the pair judge has reasonable notice of the need for coverage.
- F. If a pair judge is not available at the time that a request is made for a hearing or other proceeding before a pair judge, and if the deputy court clerk in the branch to which the case is otherwise assigned has not assisted the parties in locating a pair judge or duty judge the deputy court clerk in the pair judge branch shall assist.

1.5 Assignment of Cases to Duty Judges

- A. For one week on a rotating basis, each judge assigned to the civil and family divisions shall serve as daytime duty judge pursuant to Rule 3.5. The duty judge schedule shall be issued by the Chief Judge.
- B. For one week on a rotating basis, each judge assigned to the felony and misdemeanor divisions shall serve as duty judge between 5:00 p.m. and 8:00 a.m. on weekdays and all day and evening during the weekend and on holidays. The duty judge schedule shall be issued by the presiding judge of the felony division. The schedule may be obtained from the Clerk's office or the Chief Judge's Office.
- C. The following proceedings are assigned to the nighttime duty judge:
 - 1. Emergency bail requests; and
 - 2. Requests for warrants and orders under Wis. Stat. Ch. 968.
- D. The nighttime duty judge is not assigned requests for emergency guardianship; such requests may be made to a judge in the civil/probate division during regular business hours.
- E. [Reserved for additional rules regarding Children's Court duty judge.]
- F. Upon substitution or recusal of the duty judge, the proceedings shall be transferred to the next available judge on the duty judge schedule.

1.6 Reassignment of Cases Upon Calendar Reassignment

Upon reassignment of a calendar from one branch to another, all cases assigned to the calendar are reassigned to the new branch, except for cases which, by law, or in the interest of justice and with the consent of the Chief Judge, remain assigned to the transferor branch.

1.7 Hours of Operation

Courts may not hear cases any earlier than 8:00 a.m. on weekdays and will stop hearing cases no later than 5:00 p.m. on weekdays, except with permission of the Chief Judge. Weekend hours, if any, shall be determined by the Chief Judge.

1.8 Supreme Court and Milwaukee County Circuit Court Forms

Parties shall use the Supreme Court forms and Milwaukee County Circuit forms specified by these rules, or, where permitted, a substantial equivalent. Supreme Court forms are available at <http://www.wicourts.gov/forms1/circuit.htm>. Milwaukee County Circuit Court Forms are contained in the Appendix to these Rules.

1.9 Format of Documents Acceptable for Filing

- A. Letters, pleadings, motions, briefs, affidavits and other documents shall conform to the provisions of this rule; if not, the document shall not be filed.
- B. All documents submitted for filing shall:
 - 1. be printed on 8 1/2 by 11 inch paper; exhibits exceeding those dimensions may be filed, but only if the paper is folded so as to reduce the size of the document to 8 1/2 by 11 inches or smaller;
 - 2. state the case number and names of the principal parties to the case;
 - 3. be paginated at the bottom center of each page except for the first page of the document;
 - 4. prominently state the electronic mail address of the person signing the document, unless the person does not have an electronic mail address;
 - 5. if signed by an attorney, state the attorney's State Bar Identification Number.
 - 6. be hole-punched at the head of the document with a standard two-hole punch, for efficient maintenance and preparation of the court record; the holes shall be set apart 2 3/4 inches center to center and have a diameter of no less than 9/32 inch;
 - 7. if consisting of more than one page, be stapled or otherwise bound at the top left-hand corner of the document; documents shall not be bound in such a way as to prevent them from being opened when they are bound to the court file through the holes punched at the head of the document;
 - 8. unless otherwise permitted by state statute or court order, include a certification signed by the party or an attorney for the party filing the document stating that a copy of the document has been served on all parties to the action, following the procedures set forth in Rules 1.11 and 1.12, identifying the name and address of

each party served and stating the date and method of service; and

9. conform to any page limitations on briefs or appendices set forth in these rules.

C. The court may relieve self-represented litigants from some or all of the requirements of this rule.

1.10 Discovery Documents Shall Not be Filed

Discovery documents shall not be filed unless permitted by statute, offered in evidence, offered in support of a motion, or otherwise permitted by the court. The parties shall retain custody of discovery documents as specified in Wis. Stat. § 804.01(6).

1.11 Service of Papers Before Filing

Unless otherwise required by statute, these rules or court order, no document shall be filed until a copy of the document is served upon all parties who have appeared or otherwise must be served.

1.12 Methods of Service

- A. This rule describes methods for serving motions, briefs, affidavits, notices, correspondence and other such documents. This rule does not permit service of summonses, complaints and landlord-tenant notices by any method other than the method approved by the applicable state statute.
- B. Unless required otherwise by statute, these rules or court order, a copy of any document filed with the court shall be served upon all parties to the action.
- C. For parties represented by an attorney whose name appears in the court record, the copy shall be served on the attorney.
- D. Unless otherwise required by statute, these rules or court order, copies may be served by personal delivery, by mail, or by facsimile or electronic mail transmission, provided that a copy of the document also is mailed on the same day as the facsimile or electronic mail transmission.
- E. All documents served pursuant to this rule shall include a certification signed by the party or an attorney for the party filing the document stating that a copy of the document has been served on all parties to the action, identifying the name and address of each party served, and stating the date and method of service.

1.13 Filing of Documents by Facsimile and Electronic Mail Prohibited

- A. The court does not accept for filing any document submitted by facsimile transmission or by electronic mail, except for correspondence with the court permitted under Rule 1.14 (correspondence with the court).
- B. Electronically stored information may not be filed in lieu of hard copy unless specifically permitted by the court.

1.14 Correspondence with the Court by Facsimile and Electronic Mail

- A. Parties may not communicate with the court by facsimile transmission unless specifically invited by the court, on such terms as the court prescribes, and then only if all parties receive a copy of the transmission simultaneously with delivery of the transmission to the court.
- B. Parties may not communicate with the court by electronic mail unless specifically invited by the court, on such terms as the court prescribes, and then only if all parties receive a copy of the message simultaneously with delivery of the message to the court. If the court invites communication with the court by electronic mail, copies of all messages received by or sent by the court shall be printed in hard copy by the court and filed, unless the court directs one of the parties to print the message and submit it for filing.

1.15 Waiver of Certain Costs and Fees

- A. Except in cases in which a person seeks a harassment or domestic abuse restraining order or injunction (which cases are governed by paragraph C.), all applications for waiver of costs and fees under Wis. Stat. § 814.29 shall be made in the office of the Chief Judge.
- B. Persons, other than prisoners as defined in Wis. Stat. § 801.02(7)(a)2., who apply for the waiver of costs and fees shall:
 - 1. complete and file a Supreme Court Form CV-410 affidavit demonstrating his or her indigency; and
 - 2. except as provided in paragraph A.3, appear in person and provide (i) proof of the applicant's identity (for example, a driver's license or picture identification card) and (ii) proof of income or proof that the applicant receives means-tested public assistance in his or her name (for example, AFDC, TANF, W-2; medical assistance; SSI; food stamps; Veterans Benefits under Wis. Stat. § 45.351; block relief under Wis. Stat. Ch. 49, county relief under Wis. Stat. § 59.53(21)) or (iii) proof that the applicant is otherwise unable, due to indigency, to pay costs and fees.

3. The application may be made on behalf of the applicant without the applicant appearing in person if the application confirms the applicant's indigency and (i) the application is presented by an attorney of an organization that provides legal services only for indigent persons, or an attorney who represents the applicant *pro bono*; or (ii) the application is presented by an employee of such attorney and the application is accompanied by a letter on the letterhead of the attorney, firm or agency and a self-addressed, stamped return envelope for return of the signed order.
- C. All applications for waiver of costs and fees in cases in which the petitioner seeks a harassment or domestic abuse injunction or restraining order shall be submitted to the Family Court Commissioner through the office of the Task Force on Family Violence. If the application is denied, petitioner may request review by the Chief Judge. There is no filing fee for a domestic abuse petition.
- D. Prisoners, as defined in Wis. Stat. § 801.02(7)(a)2., who apply for the waiver of costs and fees shall submit to the Chief Judge's office the pleadings to be filed with the court together with:
1. a completed Supreme Court form CV-438 Affidavit of Indigency;
 2. a Department of Justice Certification of Three or More Dismissals;
 3. a certified copy of the prisoner's trust account for the previous six months from the prisoner's institution;
 4. a Department of Corrections Form 1930 Authorization to the agency having custody of the prisoner's trust account to release funds;
 5. when filing a new case, an original and at least one copy for each defendant who must be served; when filing a writ of certiorari, an original and 2 copies; and
 6. a self-addressed, stamped, return envelope with proper postage for return of filed documents.
- E. The Chief Judge is not authorized to waive transcript charges or charges for photocopies made by the Clerk of Circuit Court.

1.16 Substitution or Withdrawal of Attorney

An attorney who has made an appearance in any case shall not withdraw, nor shall a substitute attorney appear, without permission of the court.

1.17 Admission *pro hac vice*

- A. An attorney not a member of the State Bar of Wisconsin may appear in a particular case pending in this court if the attorney (i) is admitted to practice in another jurisdiction, (ii) is in good standing, (iii) appears with a member of the state bar of Wisconsin in compliance with Supreme Court Rule 10.03(4), and (iv) obtains the permission of the court pursuant to paragraph B.
- B. Permission to practice *pro hac vice* may be granted upon the filing and service under Rule 1.20 (the five-day rule) of:
 - 1. a motion signed by an active member of the state bar of Wisconsin;
 - 2. an affidavit of counsel or other proof that the attorney seeking permission is in good standing in the jurisdiction in which the attorney practices;
 - 3. a signed, notarized statement of the attorney seeking permission that the attorney will comply with these local rules;
 - 4. a proposed order granting permission; and
 - 5. a self-addressed, stamped envelope for return of the signed order.
- C. The court may require local counsel to personally appear and actively participate in certain proceedings, including a trial. If at any time the court revokes the permission granted under this rule, local counsel shall be prepared to appear immediately in all further proceedings.

1.18 Hearing Dates

- A. Unless otherwise ordered by the court, a party, before filing a motion that requires a hearing, shall contact the deputy court clerk of the branch to which the case is assigned in person or by telephone and request a hearing date. A motion filed without a hearing date may not be heard.
- B. All motions requiring a hearing shall be accompanied by a written notice to all parties of the date, time and place of the hearing.

1.19 Good Faith Effort to Resolve Differences Before Bringing a Motion; Notice to Court upon Resolution of Pending Motion

- A. Except as permitted by statute, by these rules or by court order, attorneys shall make a good faith effort to resolve differences informally before filing a motion.

- B. Except as permitted by statute, by these rules or by court order, all motions signed by an attorney, whether scheduled before a judge or a court commissioner, shall be accompanied by a written certification stating:
1. that the attorney has made a sincere attempt to resolve the issues or differences that give rise to the motion;
 2. that the attorney spoke face-to-face or by telephone with the opposing party or, if represented, with the opposing party's attorney; or that written communication was necessary because reasonable attempts to make face-to-face or telephone contact failed; and
 3. the manner, date, time and place of such conference or communication, and the names of all the parties who participated.
- C. This rule does not apply when compliance cannot be had before the filing of a motion, as long as the attorney (i) states in the certification accompanying the motion the reasons why compliance cannot be had, (ii) continues to make a diligent attempt to resolve the differences between the parties prior to the hearing on the motion, and (iii), at the time of the hearing on the motion, files a written certification under oath with the court that complies with paragraph B.
- D. This rule does not apply to dispositive motions, including motions to dismiss and for summary judgment and motions to suppress.
- E. Whenever any scheduled motion is resolved or withdrawn before it is heard, the moving party promptly shall so advise the court and all parties.

1.20 Proposed Orders; the "Five-Day" Rule

- A. If the court invites the submission of a proposed written order, and unless the proposed order is stipulated in writing, the proposed order shall be:
1. filed with the court,
 2. served upon all parties (following the procedures set forth in Rules 1.11 and 1.12) under cover of a letter giving notice of the provisions of this rule, and
 3. held by the court for 5 business days after it is received.
- B. On or before the fifth business day after the order is received by the court, any party that objects to the form of the proposed order or any failure of the proposed order to express the court's intended or suggested order shall file a written objection accompanied by a proposed order consistent with the objection. The objection and counter-order shall be filed, served and held following the procedures in paragraph A. The provisions of this

paragraph apply to objections to the counter-order.

- C. This rule does not apply to judgment documents submitted under Rule 5.____ (preparation of judgment document in contested divorces).

1.21 Issuance of subpoenas in civil and criminal cases venued outside Wisconsin

- A. A party to a civil case venued in a court outside Wisconsin (“the underlying case”) may procure a subpoena for the attendance of a witness at a deposition and, if applicable, the production of documents or other things for inspection by compliance with Wis. Stat. §§ 887.24-887.26 completing the following requirements:
1. Obtain a certified copy of a certificate, commission, letters rogatory or other order of the court in the underlying case authorizing the issuance of a subpoena by this court.
 2. File an original plus two copies of a petition requesting issuance of a subpoena.
 - a. The caption of the petition should be the same as the caption of the underlying case, except that the case number on the petition will be issued by the Clerk of this Court.
 - b. The petition shall be accompanied by
 1. a copy of the reciprocal statute(s) governing the underlying case, in compliance with Wis. Stat. §§ 887.24 and 887.25(3);
 2. the certified copy of the certificate, commission, letters rogatory or other order to which paragraph 1 refers;
 3. if the witness is being commanded to appear in the court where the underlying case is pending, the subpoena issued by the court in the underlying case;
 4. a proposed order authorizing the issuance of the subpoena by this court;
 5. a proposed subpoena using Form GF-126 or its substantial equivalent, signed by an active member of the state bar of Wisconsin or presented to the Clerk of the Circuit Court for signature;
 6. the fee charged by the Clerk of the Court for the issuance of subpoenas; and

7. a self-addressed, stamped envelope for return of the signed copies if they are submitted by mail.
3. After the filing of the petition and payment of the required the fee, the petitioner shall bring the court file to the office of the Chief Judge for review and signature.
- B. A party to a criminal case venued in a court outside Wisconsin ("the underlying case") may procure a summons for the attendance of a witness in proceedings in a court in another state by compliance with Wis. Stat. § 976.02(2).

1.22 Courtroom Attire and Decorum

- A. Lawyers shall, while in a courtroom or a commissioner's hearing room for any court proceeding, be dressed in professional attire and in such a manner so as to show respect for the dignity of the court. Professional attire means that men will wear coats and ties and women will wear dresses, suits or pantsuits. Each Judge and Court Commissioner may make exceptions to these rules as they think appropriate.
- B. Absent specific authorization from the Judge or Court Commissioner presiding in that courtroom, all electronic communication devices (including, but not limited to, cellular or mobile phones, pagers, iPods) shall be turned off when in a courtroom or a commissioner's hearing room and microphones or earpieces for such devices shall not be worn in a courtroom or commissioner's hearing room.
- C. Lawyers, litigants, witnesses and all other members of the public shall conduct themselves in a manner which demonstrates sensitivity to the necessity of preserving decorum and the integrity of the judicial process. Only attorneys and members of their staffs may be seated in front of the bar while waiting for their case(s) to be called. Absent specific authorization from the Judge or Court Commissioner presiding in the courtroom, the following are prohibited from courtrooms and commissioner hearing rooms:
 1. the reading of newspapers; and
 2. food or beverages (except water).

1.23 Notice of Need for Interpreter

- A. If, at the time of filing any action, the party filing the action knows of a need for a language or sign interpreter for any party, witness, guardian or any person specified in Wis. Stat. § 885.38, the party shall notify the Clerk of the Court.
- B. If after the filing of any action, any party learns of the need for a language or sign interpreter for any party, witness, guardian or any person specified in Wis. Stat. § 885.38, the party shall notify the court as soon as reasonably possible and no later than 2 weeks

before any evidentiary hearing or trial.

1.24 Jurors

- A. No branch may request more than 50 prospective jurors, except with the permission of the Chief Judge.
- B. The jury manager may recall from the branch a jury panel that is requested by the branch but is not seated for jury selection within 30 minutes after the panel leaves the jury assembly area.

1.25 Photography in Courtrooms

No photography of any kind or by any means, including still and video photography, is permitted in any courtroom, except of a wedding or adoption or as provided by SCR Chapter 61 or a court order in a particular case.

1.26 John Doe and Inquest Proceedings

- A. Requests for John Doe examination and inquests shall be submitted in writing and be filed directly with the Chief Judge's office.
- B. The Chief Judge shall assign the matter for hearing pursuant to Rule 1.2 (plenary authority of Chief Judge to assign cases).

1.27 Courthouse Security Passes

- A. Attorneys in good standing with the State Bar may apply for a pass permitting entrance to the courthouse during normal business hours without submitting to security screening.
- B. To obtain a courthouse security pass, the attorney shall file an application in person for approval by the Chief Judge accompanied by personal identification and a check in the amount of \$25.00 made payable to the Milwaukee County Sheriff's Department, and be photographed by the Sheriff's Department during designated hours.
- C. An attorney whose privilege to practice law in Wisconsin is suspended or revoked shall return the courthouse security pass to the Chief Judge's office.